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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/666,289	09/18/2003	Yoshiki Katsumata	4346/90254 (TRX 0755)	9064

33856 7590 12/30/2004

TETRA PAK US INTELLECTUAL PROPERTY DEPARTMENT
TETRA PAK INC.
101 COPORATE WOODS PARKWAY
VERNON HILLS, IL 60061

EXAMINER

TRUONG, THANH K

ART UNIT	PAPER NUMBER
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3721

DATE MAILED: 12/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/666,289

Applicant(s)

KATSUMATA ET AL.

Examiner

Thanh K Truong

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 October 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 9-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This action is in response to applicant's amendment received on October 22, 2004.
2. Applicant's cancellation of claims 6-8 and 13-15 is acknowledged.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Anderson (6,385,950) in view of Janson et al. (5,324,250).

Anderson discloses a form, fill and seal packaging machine comprising:

a carton magazine 32 for storing a plurality of cartons, and a carton erection station 34 for receiving the cartons and opening the cartons to a tubular form (figure 3, column 5, lines 26-28);

a rotating turret 28, the turret rotating to define a turret plane;

a plurality of carton mandrels 30a-d mounted to the turret for rotation with the turret;

a carton bottom heater 36 located along a rotational path of the turret;

a carton bottom sealer 38 located along the rotational path of the turret;

a carton bottom panel folding assembly 40 located along the rotational path of the turret, disposed between the carton bottom heater and the carton bottom sealer, the carton bottom panel folding assembly including a pair of opposing rotating members 50, 52 disposed on either side of the carton as the carton traverses past the folding assembly, each of the rotating members configured to rotate in a plane that is transverse to the turret plane (figure 4).

Anderson discloses the claimed invention, but does not expressly disclose a tucking assembly disposed between the opposing rotating members, and the tucking assembly rotating in a plane transverse to the plane of the rotating members and parallel to the turret plane.

Janson discloses an apparatus for folding bottom panels of a carton blank comprising: a pair of opposing rotating members 60 disposed on either side of the carton as the carton traverses past the folding assembly, each of the rotating members configured to rotate in a plane that is transverse to the turret plane, a tucking assembly 56 disposed between the opposing rotating members, and the tucking assembly rotating in a plane transverse to the plane of the rotating members 60 and parallel to the turret plane (figures 4, 5 & 7). Jason's apparatus provides an effective bottom folding device and ensure that the carton bottom is properly folded and sealed.

Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to modify Anderson's carton bottom folder by incorporating the carton bottom folder as taught by Janson to provide an effective carton bottom folder device.

The modified Anderson and Janson further discloses: the folding assembly includes a rotating drive shaft 66, wherein the opposing rotating members are operably connected to the drive shaft and wherein the tucking assembly is operably connected to the drive shaft (Janson, figure 7); wherein the drive shaft and rotating members are connected by plurality of bevel gears (Anderson, figures 4 & 5); the tucking assembly includes a mount extending from the drive shaft and a blade 56 disposed at an end of the mount, and the blade includes a roller 57 at an end thereof (Janson, figures 3 & 7); and the form, fill and seal apparatus including a tab tucker 72 extending from the mount between the shaft 66 and the blade 56 (Janson, figures 3 & 7); and wherein the tucking blade contacts a spot on the bottom trailing flap and maintains contact with the spot, substantially without sliding longitudinally from the spot, as the carton traverses past the folding assembly (see paragraph 6 below for the explanation).

Response to Arguments

5. Applicant's arguments filed October 22, 2004 have been fully considered but they are not persuasive.

6. In response to the Applicant's argument (pages 8 and 9 of the amendment fled October 22, 2004) that: "Rather, Applicant submits that a review of the Janson patent, ... the bending member 72 must move longitudinally as it contacts the panel, ...it is applicant's position that the bending member simply couldn't *not* move longitudinally along the flap as the carton passed the folder.", the examiner not quite follows with the argument, because:

The recitations of the amended claims 1 and 9 require that the “tucking blade” and not the “bending member” in contact with the bottom trailing flap without substantially sliding longitudinally, thus argument regarding the “bending member” being moved longitudinally is irrelevant.

Moreover, according to Janson’s disclosure (figure 9), the mandrel 42 rotates clockwise (arrow A) and the tucking blade assembly (56, 57) rotates counter clockwise (arrow B), and that indicates that they are moving away from each other, and the contact is started at the tip of the flap 34, thus the contact spot between the tucking blade and the bottom trailing flap of the carton 20 (mainly the short distance of the panel flap 35) is substantially short time and without substantially sliding longitudinally.

Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

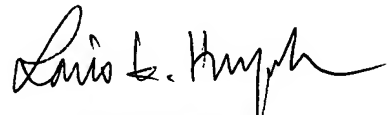
Art Unit: 3721

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K Truong whose telephone number is (571) 272-4472. The examiner can normally be reached on Mon-Thurs from 8:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I Rada can be reached on (571) 272-4467. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tkt
December 25, 2004.


LOUIS K. HUYNH
PRIMARY EXAMINER